



General Assembly

Substitute Bill No. 5058

February Session, 2010

* ____HB05058APP__042010__ *

**AN ACT CONCERNING THE RIGHT TO ORGANIZE FOR CERTAIN
STATE EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-270 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 When used in sections 5-270 to 5-280, inclusive, as amended by this
4 act:

5 (1) "Bureau heads" means individuals who head a major division of
6 a state agency and report to the head or deputy head of such agency,
7 provided: (A) The number of bureau heads of any state agency shall
8 not exceed the greater of (i) one, or (ii) one-half of one per cent of the
9 total number of permanent full-time employees of the employer,
10 rounded to the next lowest whole number; (B) the number of bureau
11 heads in the state executive branch shall not exceed one-half of one per
12 cent of the total number of permanent full-time employees in the
13 branch, rounded to the next lowest whole number, and the number of
14 bureau heads in the state judicial branch shall not exceed one-half of
15 one per cent of the total number of permanent full-time employees in
16 the branch, rounded to the next lowest whole number; and (C) if a
17 state agency has more major divisions than the number of bureau
18 heads permitted to an employer by this subdivision, the major
19 divisions shall be ranked by the number of permanent full-time

20 employees in each, and any individual heading a major division with a
21 smaller number of permanent full-time employees shall be excluded
22 from being classified as a bureau head before any individual heading a
23 major division with a larger number of full-time employees.

24 [(a)] (2) "Employer" means the state of Connecticut, its executive and
25 judicial branches, and the legislative branch for the purpose of
26 negotiating with the Office of State Capitol Police, including, without
27 limitation, any board, department, commission, institution, or agency
28 of such branches or any appropriate unit thereof and any board of
29 trustees of a state-owned or supported college or university and
30 branches thereof, public and quasi-public state corporation, or
31 authority established by state law, or any person or persons designated
32 by the employer to act in its interest in dealing with employees, but
33 shall not include the State Board of Labor Relations or the State Board
34 of Mediation and Arbitration.

35 [(b)] (3) "Employee" means any employee of an employer, whether
36 or not in the classified service of the employer, [except] including
37 employees of the Office of State Capitol Police below the rank of
38 lieutenant, but shall not mean elected or appointed officials other than
39 special deputy sheriffs, board and commission members, disability
40 policy specialists assigned to the Council on Developmental
41 Disabilities, [managerial employees] bureau heads and confidential
42 employees.

43 [(c)] (4) "Professional employee" means: [(1)] (A) Any employee
44 engaged in work [(A)] (i) predominantly intellectual and varied in
45 character as opposed to routine mental, manual, mechanical or
46 physical work; [(B)] (ii) involving the consistent exercise of discretion
47 and judgment in its performance; [(C)] (iii) of such a character that the
48 output produced or the result accomplished cannot be standardized in
49 relation to a given time period; [(D)] (iv) requiring knowledge of an
50 advanced type in a field of science or learning customarily acquired by
51 a prolonged course of specialized intellectual instruction and study in
52 an institution of higher learning or a hospital, as distinguished from a

53 general academic education or from an apprenticeship or from training
54 in the performance of routine mental, manual or physical processes; or
55 [(2)] (B) any employee who has completed the courses of specialized
56 intellectual instruction and study described in [subsection (c)(1)(D)]
57 subparagraph (A)(iv) of this subdivision and is performing related
58 work under the supervision of a professional person to qualify himself
59 or herself to become a professional employee as defined in [subsection
60 (c)(1)] subparagraph (A) of this subdivision.

61 [(d)] (5) "Employee organization" means any lawful association,
62 labor organization, federation or council having as a primary purpose
63 the improvement of wages, hours and other conditions of employment
64 among state employees.

65 [(e)] (6) "Confidential employee" means any public employee who
66 would have access to confidential information used in collective
67 bargaining.

68 [(f)] (7) "Supervisory employee" means any individual in a position
69 in which the principal functions are characterized by not fewer than
70 two of the following: [(1)] (A) Performing such management control
71 duties as scheduling, assigning, overseeing and reviewing the work of
72 subordinate employees; [(2)] (B) performing such duties as are distinct
73 and dissimilar from those performed by the employees supervised;
74 [(3)] (C) exercising judgment in adjusting grievances, applying other
75 established personnel policies and procedures and in enforcing the
76 provisions of a collective bargaining agreement; and [(4)] (D)
77 establishing or participating in the establishment of performance
78 standards for subordinate employees and taking corrective measures
79 to implement those standards, provided in connection with any of the
80 foregoing the exercise of such authority is not merely of a routine or
81 clerical nature, but requires the use of independent judgment, and
82 such individuals shall be employees within the meaning of [subsection
83 (b)] subdivision (3) of this section. The above criteria for supervisory
84 positions shall not necessarily apply to police or fire departments.

85 [(g)] (8) "Managerial employee" means any individual in a position
 86 in which the principal functions are characterized by not fewer than
 87 two of the following, provided for any position in any unit of the
 88 system of higher education, one of such two functions shall be as
 89 specified in [subdivision (4) of this subsection: (1)] subparagraph (D) of
 90 this subdivision: (A) Responsibility for direction of a subunit or facility
 91 of a major division of an agency or assignment to an agency head's
 92 staff; [(2)] (B) development, implementation and evaluation of goals
 93 and objectives consistent with agency mission and policy; [(3)] (C)
 94 participation in the formulation of agency policy; or [(4)] (D) a major
 95 role in the administration of collective bargaining agreements or major
 96 personnel decisions, or both, including staffing, hiring, firing,
 97 evaluation, promotion and training of employees. Such individuals
 98 shall be employees within the meaning of subdivision (3) of this
 99 section.

100 Sec. 2. Subsection (a) of section 5-278 of the general statutes is
 101 repealed and the following is substituted in lieu thereof (*Effective from*
 102 *passage*):

103 (a) When an employee organization has been designated, in
 104 accordance with the provisions of sections 5-270 to 5-280, inclusive, as
 105 amended by this act, as the exclusive representative of employees in an
 106 appropriate unit, the employer shall be represented in collective
 107 bargaining with such employee organization in the following manner:
 108 (1) In the case of an executive branch employer, including the Division
 109 of Criminal Justice, by the chief executive officer whether elected or
 110 appointed, or his or her designated representative, [;] who shall
 111 maintain a close liaison with the legislature relative to the negotiations
 112 and the potential fiscal ramifications of any proposed settlement; (2) in
 113 the case of a judicial branch employer, by the Chief Court
 114 Administrator, or his or her designated representative; [and] (3) in the
 115 case of each segment of the system of higher education, the faculty and
 116 professional employees shall negotiate with their own board of
 117 trustees or its designated representative; and (4) in the case of the
 118 legislative branch, the executive director of the Joint Committee on

119 Legislative Management, or his or her designated representative.

120 Sec. 3. Subdivision (30) of section 5-196 of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective from*
122 *passage*):

123 (30) "Managerial employee" means any person presently covered by
124 the existing managerial compensation plan pursuant to [subsection (g)]
125 subdivision (8) of section 5-270, as amended by this act.

126 Sec. 4. Subsection (b) of section 5-200c of the general statutes is
127 repealed and the following is substituted in lieu thereof (*Effective from*
128 *passage*):

129 (b) Upon the completion of the studies referred to in subdivisions
130 (2) and (3) of subsection (a) of this section and the implementation of
131 the results of such studies, collective bargaining negotiations
132 concerning wage changes as a result of objective job evaluations shall
133 commence not later than April 1, 1993. Notwithstanding the provisions
134 of subsection (a) of section 5-278, as amended by this act, such
135 negotiations shall be conducted between the employer, as defined in
136 [subsection (a)] subdivision (2) of section 5-270, as amended by this act,
137 and a coalition committee which represents all state employees who
138 are members of any designated employee organization. The results of
139 any such negotiations shall be implemented as of July 1, 1995. All wage
140 inequities shall be deemed to have been eliminated upon the
141 implementation of such results. Nothing in this subsection shall be
142 deemed to affect any appeal related to any objective job evaluation
143 studies previously taken or allowed or any litigation pending on June
144 25, 1991, or to prohibit the continued use of a point factor value system
145 for the evaluation of newly created job classifications.

146 Sec. 5. Section 5-226f of the general statutes is repealed and the
147 following is substituted in lieu thereof (*Effective from passage*):

148 Notwithstanding the provisions of subsection (d) of section 5-272
149 the employer, as defined in [subsection (a)] subdivision (2) of section 5-

150 270, as amended by this act, and an employee organization, as defined
151 in [subsection (d)] subdivision (5) of [said] section 5-270, as amended
152 by this act, as the exclusive representative of employees in an
153 appropriate unit, may engage in a pilot program to discuss the state
154 classifications and examination system. Neither party may negotiate
155 pursuant to the provisions of section 5-276a, as amended by this act.
156 Any agreement reached by the parties shall be reduced to writing and
157 submitted to the General Assembly pursuant to the provisions of
158 subsection (b) of section 5-278.

159 Sec. 6. Subsection (a) of section 5-248i of the general statutes is
160 repealed and the following is substituted in lieu thereof (*Effective from*
161 *passage*):

162 (a) The Commissioner of Administrative Services may develop and
163 implement guidelines, in cooperation with interested employee
164 organizations, as defined in [subsection (d)] subdivision (5) of section
165 5-270, as amended by this act, authorizing telecommuting and work-
166 at-home programs for state employees where such arrangements are
167 determined to be cost effective.

168 Sec. 7. Subsection (a) of section 5-276a of the general statutes is
169 repealed and the following is substituted in lieu thereof (*Effective from*
170 *passage*):

171 (a) In the event that either the employer, as defined in [subsection
172 (a)] subdivision (2) of section 5-270, as amended by this act, or a
173 designated employee organization, as defined in [subsection (d)]
174 subdivision (5) of [said] section 5-270, as amended by this act, may
175 desire negotiations with respect to an original or successor collective
176 bargaining agreement, such party, not more than three hundred thirty
177 days prior to the expiration of the existing collective bargaining
178 agreement or less than one hundred fifty days prior thereto, shall serve
179 written notice thereof upon the other party. Negotiations shall
180 commence within thirty days of such service. Negotiations as to wage
181 reopeners shall commence within twenty days of receipt by one party

182 of a written notice with respect thereto, served in accordance with the
183 provisions of any such reopener in the affected contract or, if none is
184 stated therein, not more than sixty days or less than thirty days prior to
185 the effective date of such reopener.

186 Sec. 8. Subdivision (7) of section 9-601 of the general statutes is
187 repealed and the following is substituted in lieu thereof (*Effective from*
188 *passage*):

189 (7) "Organization" means all labor organizations, (A) as defined in
190 the Labor-Management Reporting and Disclosure Act of 1959, as from
191 time to time amended, or (B) as defined in subdivision (9) of section
192 31-101, employee organizations as defined in [subsection (d)]
193 subdivision (5) of section 5-270, as amended by this act, and
194 subdivision (6) of section 7-467, bargaining representative
195 organizations for teachers, any local, state or national organization, to
196 which a labor organization pays membership or per capita fees, based
197 upon its affiliation or membership, and trade or professional
198 associations which receive their funds exclusively from membership
199 dues, whether organized in or outside of this state, but does not mean
200 a candidate committee, party committee or a political committee.

201 Sec. 9. Section 32-23e of the general statutes is repealed and the
202 following is substituted in lieu thereof (*Effective from passage*):

203 To accomplish the purposes of the authority, as defined in
204 subsection (t) of section 32-23d, which are hereby determined to be
205 public purposes for which public funds may be expended, and in
206 addition to any other powers provided by law, the authority shall have
207 power to: (1) Determine the location and character of any project to be
208 financed under the provisions of said chapters and sections, provided
209 any financial assistance shall be approved in accordance with written
210 procedures prepared pursuant to subdivision (14) of this section; (2)
211 purchase, receive, by gift or otherwise, lease, exchange, or otherwise
212 acquire, and construct, reconstruct, improve, maintain, equip and
213 furnish one or more projects, including all real and personal property

214 which the authority may deem necessary in connection therewith, and
215 to enter into a contract with a person therefor upon such terms and
216 conditions as the authority shall determine to be reasonable, including
217 but not limited to reimbursement for the planning, designing,
218 financing, construction, reconstruction, improvement, equipping,
219 furnishing, operation and maintenance of the project and any claims
220 arising therefrom and establishment and maintenance of reserve and
221 insurance funds with respect to the financing of the project; (3) insure
222 any or all payments to be made by the borrower under the terms of
223 any agreement for the extension of credit or making of a loan by the
224 authority in connection with any economic development project to be
225 financed, wholly or in part, through the issuance of bonds or mortgage
226 payments of any mortgage which is given by a mortgagor to the
227 mortgagee who has provided the mortgage for an economic
228 development project upon such terms and conditions as the authority
229 may prescribe and as provided herein, and the faith and credit of the
230 state are pledged thereto; (4) in connection with the insuring of
231 payments of any mortgage, request for its guidance a finding of the
232 municipal planning commission, or, if there is no planning
233 commission, a finding of the municipal officers, of the municipality in
234 which the economic development project is proposed to be located, or
235 of the regional planning agency of which such municipality is a
236 member, as to the expediency and advisability of the economic
237 development project; (5) sell or lease to any person, all or any portion
238 of a project, purchase from eligible financial institutions mortgages
239 with respect to economic development projects, purchase or
240 repurchase its own bonds, and sell, pledge or assign to any person any
241 such bonds, mortgages, or other loans, notes, revenues or assets of the
242 authority, or any interest therein, for such consideration and upon
243 such terms as the authority may determine to be reasonable; (6)
244 mortgage or otherwise encumber all or any portion of a project
245 whenever it shall find such action to be in furtherance of the purposes
246 of said chapters and sections; (7) enter into agreements with any
247 person, including prospective mortgagees and mortgagors, for the
248 purpose of planning, designing, constructing, acquiring, altering and

249 financing projects, providing liquidity or a secondary market for
250 mortgages or other financial obligations incurred with respect to
251 facilities which would qualify as a project under this chapter,
252 purchasing loans made by regional corporations under section 32-276,
253 or for any other purpose in furtherance of any other power of the
254 authority; (8) grant options to purchase or renew a lease for any of its
255 projects on such terms as the authority may determine to be
256 reasonable; (9) employ or retain attorneys, accountants and
257 architectural, engineering and financial consultants and such other
258 employees and agents and to fix their compensation and to employ the
259 Connecticut Development Credit Corporation on a cost basis as it shall
260 deem necessary to assist it in carrying out the purposes of said
261 authority legislation; (10) borrow money or accept gifts, grants or loans
262 of funds, property or service from any source, public or private, and
263 comply, subject to the provisions of said authority legislation, with the
264 terms and conditions thereof; (11) accept from a federal agency loans
265 or grants for use in carrying out its purpose, and enter into agreements
266 with such agency respecting any such loans or grants; (12) provide
267 tenant lease guarantees and performance guarantees, invest in, extend
268 credit or make loans to any person for the planning, designing,
269 financing, acquiring, constructing, reconstructing, improving,
270 expanding, continuing in operation, equipping and furnishing of a
271 project and for the refinancing of existing indebtedness with respect to
272 any facility or part thereof which would qualify as a project in order to
273 facilitate substantial improvements thereto, which guarantees,
274 investments, credits or loans may be secured by loan agreements, lease
275 agreements, installment sale agreements, mortgages, contracts and all
276 other instruments or fees and charges, upon such terms and conditions
277 as the authority shall determine to be reasonable in connection with
278 such loans, including provision for the establishment and maintenance
279 of reserve and insurance funds and in the exercise of powers granted
280 in this section in connection with a project for such person, to require
281 the inclusion in any contract, loan agreement or other instrument, such
282 provisions for the construction, use, operation and maintenance and
283 financing of a project as the authority may deem necessary or

284 desirable; (13) in connection with any application for assistance under
285 said authority legislation, or commitments therefor, to make and
286 collect such fees and charges as the authority shall determine to be
287 reasonable; (14) adopt procedures, in accordance with the provisions
288 of section 1-121, to carry out the provisions of said authority
289 legislation, which may give priority to applications for financial
290 assistance based upon the extent the project will materially contribute
291 to the economic base of the state by creating or retaining jobs,
292 providing increased wages or benefits to employees, promoting the
293 export of products or services beyond the boundaries of the state,
294 encouraging innovation in products or services, encouraging defense-
295 dependent business to diversify to nondefense production, promoting
296 standards of participation adopted by the Connecticut partnership
297 compact pursuant to section 33-374g of the general statutes, revision of
298 1958, revised to 1991, or will otherwise enhance existing activities that
299 are important to the economic base of the state, provided regulation-
300 making proceedings commenced before January 1, 1989, shall be
301 governed by sections 4-166 to 4-174, inclusive; (15) adopt an official
302 seal and alter the same at pleasure; (16) maintain an office at such place
303 or places within the state as it may designate; (17) sue and be sued in
304 its own name and plead and be impleaded, service of process in any
305 action to be made by service upon the executive director of said
306 authority either in hand or by leaving a copy of the process at the
307 office of the authority with some person having charge thereof; (18)
308 employ such assistants, agents and other employees as may be
309 necessary or desirable for its purposes, which employees shall be
310 exempt from the classified service and shall not be employees, as
311 defined in [subsection (b)] subdivision (3) of section 5-270, as amended
312 by this act; establish all necessary or appropriate personnel practices
313 and policies, including those relating to hiring, promotion,
314 compensation, retirement and collective bargaining, which need not be
315 in accordance with chapter 68 and the authority shall not be an
316 employer, as defined in [subsection (a)] subdivision (2) of section 5-
317 270, as amended by this act; contract for and engage appraisers of
318 industrial machinery and equipment, consultants and property

319 management services, and utilize the services of other governmental
320 agencies; (19) when it becomes necessary or feasible for the authority
321 to safeguard itself from losses, acquire, purchase, manage and operate,
322 hold and dispose of real and personal property, take assignments of
323 rentals and leases and make and enter into all contracts, leases,
324 agreements and arrangements necessary or incidental to the
325 performance of its duties; (20) in order to further the purposes of said
326 authority legislation, or to assure the payment of the principal and
327 interest on bonds or notes of the authority or to safeguard the
328 mortgage insurance fund, purchase, acquire and take assignments of
329 notes, mortgages and other forms of security and evidences of
330 indebtedness, purchase, acquire, attach, seize, accept or take title to
331 any project by conveyance or, by foreclosure, and sell, lease or rent any
332 project for a use specified in said chapters and sections or in said
333 chapter 579; (21) adopt rules for the conduct of its business; (22) invest
334 any funds not needed for immediate use or disbursement, including
335 any funds held in reserve, in obligations issued or guaranteed by the
336 United States of America or the state of Connecticut and in other
337 obligations which are legal investments for savings banks in this state;
338 (23) do, or delegate, any and all things necessary or convenient to carry
339 out the purposes and to exercise the powers given and granted in said
340 authority legislation; provided, in all matters concerning the internal
341 administrative functions of the authority which are funded by
342 amounts appropriated by the state to the authority or to the
343 department, the procedures of the state relating to office space,
344 supplies, facilities, materials, equipment and professional services shall
345 be followed, and provided further, that in the acquisition by the
346 authority of real estate involving the use of appropriated funds or
347 bonds supported by the full faith and credit of the state, the authority
348 shall be subject to the provisions of section 4b-23; (24) to accept from
349 the department: (A) Financial assistance, (B) revenues or the right to
350 receive revenues with respect to any program under the supervision of
351 the department, and (C) loan assets or equity interests in connection
352 with any program under the supervision of the department; to make
353 advances to and reimburse the department for any expenses incurred

354 or to be incurred by it in the delivery of such assistance, revenues,
355 rights, assets or amounts; to enter into agreements for the delivery of
356 services by the authority, in consultation with the department, the
357 Connecticut Housing Finance Authority and Connecticut Innovations,
358 Incorporated, to third parties which agreements may include
359 provisions for payment by the department to the authority for the
360 delivery of such services; and to enter into agreements with the
361 department or with the Connecticut Housing Finance Authority or
362 Connecticut Innovations, Incorporated for the sharing of assistants,
363 agents and other consultants, professionals and employees, and
364 facilities and other real and personal property used in the conduct of
365 the authority's affairs; and (25) to transfer to the department: (A)
366 Financial assistance, (B) revenues or the right to receive revenues with
367 respect to any program under the supervision of the authority, and (C)
368 loan assets or equity interests in connection with any program under
369 the supervision of the authority, provided the transfer of such financial
370 assistance, revenues, rights, assets or interests is determined by the
371 authority to be practicable, within the constraints and not inconsistent
372 with the fiduciary obligations of the authority imposed upon or
373 established upon the authority by any provision of the general statutes,
374 the authority's bond resolutions or any other agreement or contract of
375 the authority and to have no adverse effect on the tax-exempt status of
376 any bonds of the authority or the state.

377 Sec. 10. Subdivision (7) of section 32-39 of the general statutes is
378 repealed and the following is substituted in lieu thereof (*Effective from*
379 *passage*):

380 (7) To employ such assistants, agents and other employees as may
381 be necessary or desirable, which employees shall be exempt from the
382 classified service and shall not be employees, as defined in [subsection
383 (b)] subdivision (3) of section 5-270, as amended by this act; establish
384 all necessary or appropriate personnel practices and policies, including
385 those relating to hiring, promotion, compensation, retirement and
386 collective bargaining, which need not be in accordance with chapter
387 68, and the corporation shall not be an employer as defined in

388 [subsection (a)] subdivision (2) of section 5-270, as amended by this act;
389 and engage consultants, attorneys and appraisers as may be necessary
390 or desirable to carry out its purposes in accordance with this chapter.

391 Sec. 11. Subsection (b) of section 32-602 of the general statutes is
392 repealed and the following is substituted in lieu thereof (*Effective from*
393 *passage*):

394 (b) For [these] purposes of subsection (a) of this section, the
395 authority shall have the following powers: (1) To have perpetual
396 succession as a body corporate and to adopt procedures for the
397 regulation of its affairs and the conduct of its business as provided in
398 subsection (f) of section 32-601, to adopt a corporate seal and alter the
399 same at its pleasure, and to maintain an office at such place or places
400 within the city of Hartford as it may designate; (2) to sue and be sued,
401 to contract and be contracted with; (3) to employ such assistants,
402 agents and other employees as may be necessary or desirable to carry
403 out its purposes, which employees shall be exempt from the classified
404 service and shall not be employees, as defined in [subsection (b)]
405 subdivision (3) of section 5-270, as amended by this act, to fix their
406 compensation, to establish and modify personnel procedures as may
407 be necessary from time to time and to negotiate and enter into
408 collective bargaining agreements with labor unions; (4) to acquire,
409 lease, hold and dispose of personal property for the purposes set forth
410 in this section; [32-602;] (5) to procure insurance against any liability or
411 loss in connection with its property and other assets, in such amounts
412 and from such insurers as it deems desirable and to procure insurance
413 for employees; (6) to invest any funds not needed for immediate use or
414 disbursement in obligations issued or guaranteed by the United States
415 of America or the state of Connecticut, including the Short Term
416 Investment Fund, and the Tax-Exempt Proceeds Fund, and in other
417 obligations which are legal investments for savings banks in this state
418 and in time deposits or certificates of deposit or other similar banking
419 arrangements secured in such manner as the authority determines; and
420 (7) to do all acts and things necessary or convenient to carry out the
421 purposes of and the powers expressly granted by this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	5-270
Sec. 2	<i>from passage</i>	5-278(a)
Sec. 3	<i>from passage</i>	5-196(30)
Sec. 4	<i>from passage</i>	5-200c(b)
Sec. 5	<i>from passage</i>	5-226f
Sec. 6	<i>from passage</i>	5-248i(a)
Sec. 7	<i>from passage</i>	5-276a(a)
Sec. 8	<i>from passage</i>	9-601(7)
Sec. 9	<i>from passage</i>	32-23e
Sec. 10	<i>from passage</i>	32-39(7)
Sec. 11	<i>from passage</i>	32-602(b)

LAB *Joint Favorable Subst.*

APP *Joint Favorable*